reluctantly come to the conclusion that this appeal must be allowed, the conviction quashed, and the sentence set aside. I am not disposed to order a retrial. The Public Prosecutor must exercise his own discretion as to what action he thinks fit to take.

Before finally parting with this appeal I desire to say, and to place upon record, my emphatic view that it is utterly unsatisfactory and wholly wrong that serious charges of this nature levelled against a Senior Police Inspector should be left to be prosecuted by another Police Officer by way of summary trial in a subordinate Court. The Appellant was represented at his trial by Counsel. The trial lasted nine days and, as is apparent from the length of this judgment, involved points of law and decisions as to the admissibility of evidence that required both careful consideration and argument. What I have to say is in no sense a criticism of the Police Officer who prosecuted in this case and who is, no doubt, a competent, experienced and conscientious Prosecuting Officer. But, quite apart from the natural sense of distaste that he must have had in being called upon to prosecute a brother officer it was, in my most emphatic view, neither fair to him, nor to the trial Court — which is entitled to expect assistance from the prosecution in matters of law and evidence that may arise — nor, indeed, in the public interest that a serious charge of this nature should be left to be prosecuted by a Police Officer. I hope and trust that the practice — which is, unfortunately, particularly prevalent in Penang — of leaving serious criminal charges that may well involve points of law of difficulty and complexity to be prosecuted by Police Officers, will no longer continue.

In making these observations I am acutely aware that the unfortunate Legal Adviser in Penang, unlike many other States of the Federation, has not the benefit of the appointment of a Deputy Public Prosecutor — or even a qualified Legal Assistant — to assist him, but that he has to combine these two functions himself. But if it is seriously considered by the Attorney General's Department that the volume of work in Penang and Province Wellesley is not sufficient to justify the appointment of a Deputy Public Prosecutor — or even a qualified Legal Assistant — in Penang, then it is surely desirable to give immediate consideration to the commonly adopted practice of instructing Counsel from the Bar, on a fiat from the Public Prosecutor, to prosecute charges of a serious nature in which the public interest is involved. In this respect I assume it will be accepted that charges of corruption and extortion against Government Officers are matters in which the public interest is very seriously involved.

For these reasons I have given I am of the opinion, and I so order, that this appeal be allowed, the conviction quashed, and the sentence set aside.

Appeal allowed.

Solicitor: *Lee Kok Liang.*

Re M. A. MAJID'S APPLICATION

[O. C. J. (Rose C.J.) October 20, 1960]

[Singapore — Originating Motion No. 18 of 1960]

Certiorari — Trade Unions Ordinance (Cap. 154), s.15 — Cancellation of Registration of Trade Union — Registrar's grounds for cancellation — Appeal to Minister — Minister's confirmation of Registrar's Order — Defective Order — Whether Minister bound to hear appellant orally — Bias — Whether decision reasonable — Grounds for Intervention by the Court.

The Registrar of Trade Unions cancelled the Certificate of Registration of the Malayan National Seamen's Union under section 15 of the Trade Unions Ordinance (Cap. 154) on the ground that it was being used against the interests of seamen. On appeal to the Minister for Labour and Law the said order of cancellation was later confirmed. M. A. Majid, the President of the Union applied by Originating Motion for an order of Certiorari to have the order of the Minister confirming the Registrar's decision quashed on the following grounds:—

(1) that the Registrar's Order of Cancellation was defective in that it did not specify the ground of cancellation as required by section 15(5);

(2) that the Minister had refused to give the appellant/applicant an oral hearing on appeal and that the applicant had thereby been denied natural justice;

(3) that the Registrar and the Minister were biassed;

(4) that the action of the Registrar in cancelling the Union's registration and the Minister's confirmation thereof was unreasonable.

Held: (1) the statement in the body of the order of cancellation that the Union was being used against the interests of seamen coupled with a later statement of facts relating to the proposed cancellation was a sufficient compliance with section 15(5);

(2) the Minister was not obliged to hear the appellant orally provided that an adequate opportunity had otherwise been given to him to present the case for the Union which in fact had been done;

(3) bias was denied and had not been proved;

(4) it would be wrong for the Court to substitute its view of what is reasonable for that of the Minister and that in the circumstances there was no room for intervention by the Court.

Cases referred to:—

(1) *Local Government Board* v. *Arlidge* [1915] A.C 120 at p. 132.

(2) *Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corporation* [1948] 1 K.B. 223 at p. 228.

APPLICATION FOR CERTIORARI.

A. Muthuswamy for the applicant.

A. V. Winslow (Solicitor-General) for the respondent.

Rose C.J.: On the 20th of January 1960 the Registrar of Trade Unions forwarded to the Secretary of the Malayan National Seamen's Union his Order of Cancellation of Certificate of Registration, of the same date, under section 15(4) of the Trade Unions Ordinance (Chapter 154).

In the same letter the Secretary's attention was drawn to the procedure to be followed in the event of his desiring to appeal to the Minister for Labour and Law against the Order of Cancellation.

The necessary statutory notice had been given and, upon request, the Registrar had on the 18th of December, 1959, forwarded to the applicant's solicitors a brief statement of the facts which led him to cancel the registration.

The Order of Cancellation reads as follows:—

"ORDER OF CANCELLATION OF CERTIFICATE OF REGISTRATION UNDER SECTION 15 (4).

Name of Trade Union: Malayan National Seamen's Union.

Registered Address of Head Office of Trade Union: 137A, Rangoon Road, S'pore 8.

Registration No.: 75.

WHEREAS the above-named Union having been served with a notice under Section 15(2) of the Trade Unions Ordinance to show cause, within 2 months of the date of that notice, why its certificate of registration should not be cancelled on the ground that the trade union is being used against the interests of seamen,

AND WHEREAS the above-named trade union, having shown cause, has failed to satisfy the Registrar that its Certificate of registration should not be cancelled,

IT IS NOW ORDERED that the certificate of registration of the above-named trade union be and is hereby cancelled.

SEAL OF REGISTRAR OF TRADE UNIONS SINGAPORE

(Sd.) Sng Choon Yee
Registrar of Trade Unions,
Singapore.

The Secretary,
Malayan National Seamen's Union,
Registered Address of Head Office of the Trade Union: 137A, Rangoon Road, Singapore 8."

and the facts in support read as follows:—

"FACTS IN BRIEF LEADING TO THE GROUND OF THE PROPOSED CANCELLATION OF THE CERTIFICATE OF REGISTRATION OF MALAYAN NATIONAL SEAMEN'S UNION.

That the union has incurred expenditure far in excess of its actual receipts in each year, thereby causing it to incur debts year after year. Thus the union has become indebted to a single creditor who is an officer of the union believed to be concurrently the proprietor of an unlicensed seamen's lodging house occupied by a number of officers of the union. In addition the said lodging house also housed seamen who paid charges for such accommodation.

Between 1955 to 1959 the union has paid huge sums of money out of its funds to this lodging house under the heading of "providing accommodation for members".

That by this process the officer in question who is believed to be concurrently the proprietor of the said lodging house as the sole creditor and financier of this union, has obtained a stranglehold over the funds and affairs of the union in circumstances amounting to a use of such union against the interests of seamen."

The Registrar purported to act under section 15(1)(c) of the Trade Unions Ordinance as amended by the Trade Unions (Amendment) Ordinance, 1959 (Ordinance No. 53 of 1959). The relevant part of the section reads as follows:

"Cancellation or withdrawal of registration.

15.—(1) A certificate of registration of a trade union may be withdrawn or cancelled by the Registrar—

* * * *

(c) if he is satisfied in the case of a trade union of workmen in a particular trade, occupation or industry, that it is being used or is likely to be used against the interests of workmen in that particular trade, occupation or industry;".

An appeal was duly presented to the Minister and on the 23rd of May 1960 the Permanent Secretary to the Ministry of Labour and Law addressed the following letter to the President of the Malayan National Seamen's Union:—

"Sir,

Further to my letter MLL (Lab) 5469 of the 20th May in regard to your Union's appeal against the Order of Cancellation of the Certificate of Registration of your Union issued by the Registrar of Trade Unions, I am directed by the Minister to inform you that he upholds the Registrar's Order after having considered your appeal.

I am, Sir,
Your obedient servant,
(Sd.) L. C. Goh
Permanent Secretary (Labour)
to
Ministry of Labour and Law
Singapore."

The applicant, who is the President of the Union in question, now applies for an Order of *Certiorari* to quash the Order of the Minister contained in his letter of the 23rd of May 1960 dismissing the applicant's appeal against the Order of Cancellation.

In the first place learned counsel for the applicant suggests that there is a defect in the procedure adopted by the Registrar of Trade Unions in that he failed to comply with section 15(5) of the Ordinance in that he did not specify sufficiently the grounds for the cancellation of the Certificate of Registration.

It seems to me, however, that the statement in the Order itself that the trade union was being used against the interests of seamen, coupled with the statement of facts to which I have already referred was a sufficient compliance with the subsection; and that, in fact, the attention of the applicant was sufficiently directed to the relevant matters so as to enable him efficiently to prosecute his appeal.

The main substance of the applicant's complaint is that the Minister himself did not consider, or insufficiently considered, the appeal.

The Minister swore two affidavits on the 13th of August 1960 and on the 22nd of September 1960 respectively, in which he denied that he was actuated by bias either against the President of the Union or the Union itself. The Registrar, also, had filed affidavits denying that he was actuated by any improper motive. The Minister stated in addition that the President had submitted to him a most detailed document containing arguments spread over 10 pages of typescript, accompanied by documentary exhibits extending to a further 375 pages of typescript and that after having considered these voluminous documents he did not consider it necessary

to hear the President or any representative of the Union personally.

As to this matter, I do not consider that it is obligatory for the Minister actually to hear an appellant or any witnesses on his behalf in person.

In *Local Government Board* v. *Arlidge*[1] at page 132 Lord Haldane stated that the duty of a tribunal which is entrusted by statute with the decision of appeals is to deal with the question referred to it without bias and to give to each of the parties the opportunity of adequately presenting the case made. He went on to say that while the decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice, it does not follow that the procedure should in every case be the same or that it need conform to that followed in a Court of Law.

The case in question related to a local government board, and Lord Haldane added: "I do not think the Board was bound to hear the respondent orally, provided it gave him the opportunities he actually had." The opportunities referred to were the opportunity to present his case; and in the present matter, having regard to the mass of documents adduced by the appellant, which according to the affidavits were duly considered by the Minister, I am unable to take the view that such an opportunity was denied.

It was further contended on behalf of the applicant that the Minister's decision was unreasonable. Now in a case such as the present where the Legislature has entrusted the decision of an appeal to a particular person it would, in my opinion, be wrong for this Court to substitute its view of what is reasonable for that of the Minister, who is the person appointed by the Ordinance. Individual opinions of what is reasonable do not always accord, but before an order of a tribunal or person appointed by statute to determine a particular matter can be set aside it must be so manifestly unreasonable as to lead irresistibly to the conclusion that the tribunal was either biassed, or perverse, or did not trouble to consider the matter judicially at all.

To adopt a wider view of the functions of a Court in proceedings of the present kind would, as I have said, amount in effect to a substitution of the opinion of the Court for that of the tribunal or person duly appointed by law. These considerations were exhaustively dealt with by Lord Greene M.R. in *Associated Provincial Picture Houses, Limited* v. *Wednesbury Corporation*,[2] at pages 228 *et seq.*

With regard to the facts of the present matter, even assuming that there is room for a genuine difference of opinion as to whether the fact that a trade union is "a one man show", with the consequent preponderant individual influence of the person in charge of the affairs, financial and otherwise, of the Union, is a good ground for cancellation of the registration of the Union, I find myself quite unable to say that the Minister's view of the matter is manifestly unreasonable. The decision of the question must depend not only upon principle but also upon the particular facts; and those, it seems to me, are eminently matters that the Legislature has entrusted to the decision of the Minister. The Minister having come to his conclusion, there is, in my opinion, no room for intervention by this Court.

For these reasons the rule must be discharged with costs.

Application dismissed.

Solicitors: *Muthu & Co.*

Re MOHAMED SHARIFF

[R. Cr. J. (Rigby J.) October 31, 1960]

[Penang — Criminal Revision No. 8 of 1960]

Penal Code, s.182 — False statement made in mitigation of sentence — Whether accused can be prosecuted.

An accused person, who upon conviction, makes a false statement in mitigation of sentence, cannot be prosecuted in respect of such false statement under section 182 of the Penal Code.

[Editorial Note: Reference may also be made to *Emperor* v. *Matan* (1911), I.L.R. 33 All. 163 and *Queen Empress* v. *Subbayya* (1889), I.L.R. 12 Mad. 451].

CRIMINAL REVISION.

Rigby J.: The accused was convicted in the Magistrate's Court, Penang, of an offence contrary to section 182 of the Penal Code, of giving false information to a public servant with intent to cause that person to use his lawful power to the injury or annoyance of another person. The actual particulars of the charge were that the accused, on the 20th day of June, 1960, at George Town, gave to Enche' Mohd. Eusoff bin Chin, a public servant, certain information, to wit, that he had been carrying on a character lottery, with the help of bettors who were members of the Police Force and ranged from named Police Inspectors to Police Constables, that such information was, to his knowledge, false and that it was given with the intention of causing the public servant to use his lawful power to the annoyance of the said Police personnel.

The accused claimed trial to the charge. He was duly convicted and fined $25.

I am entirely satisfied that the charge was wholly misconceived, that it should never have been brought, that the conviction must be quashed, and the fine repaid to the accused.

The charge itself arose directly from a statement made by the accused to the Magistrate, Enche' Mohd. Eusoff bin Chin, in the course of criminal proceedings brought against him on a charge of assisting in carrying on a public lottery. The accused pleaded guilty to that charge. When asked if he had anything to say before sentence was passed upon him, he made